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HIGH COURT OF CHHATTISGARH, BILASPUR

W.P. (S) No. 6942 of 2007

PETITIONER		Pritam Sinha, S/o Late Shri Kashi Ram Singha, aged about 41 years, Assistant Teacher, Government Primary School, Mendha, Block Dongargarh, District Rajnandgaon, R/o Village & Post Patpar, Block & Tahsil Dongargarh, District Rajnandgaon (C.G.)
		Versus
RESPONDENTS	1	State of Chhattisgarh, Through the Secretary, School Education Department, D.K.S. Bhawan, Raipur (C.G.)
	2	The Special Secretary, School Education Department, D.K.S. Bhawan, Raipur (C.G.)
	3.	The District Education Officer, Rajnandgaon, District Rajnandgaon (C.G.)

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

Appearance:

Shri P. Diwakar, Senior Advocate with Shri K.S. Pawar, Counsel for the petitioner.

Shri A.S. Kachhwaha, Govt. Advocate for the State on advance copy.

ORAL ORDER
(22.11.2007)

SUNIL KUMAR SINHA, J

Heard.

The petitioner, who is working on the post of Assistant Teacher has been transferred from Primary School, Mendha, Block Dongargarh, District Rajnandgaon to Primary School Mahka, Block Patan, District Durg.

Learned senior counsel for the petitioner submits that the petitioner has been transferred from one Education District to another Education District. He submits that the seniority of the Assistant Teachers are maintained District wise, therefore, it is just possible that on transfer, the petitioner may go down in the gradation list of Durg District. He also submits that nobody has been posted in place of the petitioner. He further submits that

sister of the petitioner is handicapped, therefore, if the order is effected that may adversely affect the girl also.

On being pointedly asked from learned counsel for the petitioner that since when the petitioner is posted at Mendha, he submits that the petitioner is posted at Mendha since more than 3 years.

I have considered the points raised by learned senior counsel.

So far as the first point regarding affecting of seniority of the petitioner is concerned, no gradation list either of District Rajnandgaon or District Durg has been filed before this Court so as to see as to whether if the order of transfer is effected, it shall affect the seniority of the petitioner and he would face a disadvantageous position.

So far as the second ground that nobody has been posted in place of the petitioner is concerned, it has no merit because it is for the employer to see that somebody should also be posted at the place of the petitioner when the post will lie vacant after his transfer. Likewise, the third ground that the sister of the petitioner is handicapped is also not a ground for consideration by a Court of law.

Transfer is an incidence of service. No person working on a transferable post can claim to be posted at a particular place. It is for the employer to see that who should be posted where in the interest of better functioning of the department as also in the public interest. It is the settled view of the Apex Court that unless the order of transfer is vitiated by malafides or extraneous consideration or is against any statutory Rules or Act, the same cannot be interfered by a Court of Law.

Learned counsel for the petitioner could not point out any ground of malafide, extraneous considerations or violation of any statutory rules or the Act.

I do not find any reason to interfere in the order of transfer.

The petition has no merit and the same is dismissed at the motion stage itself.

Sd/-
Sunil Kumar Sinha
Judge

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